



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,705	02/24/2005	Rainer Mathes	Q86114	5900
23373 7590 09/16/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER GARCIA, ERNESTO				
ART UNIT 3679		PAPER NUMBER		
MAIL DATE 09/16/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,705

Applicant(s)

MATHES ET AL.

Examiner

ERNESTO GARCIA

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on August 3, 2009 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Restriction

Claim 10 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 24, 2008.

Drawings

The drawings were received on August 3, 2009. These drawings are accepted. However, the drawings contain discrepancies.

The drawings are objected to because the lead line of reference character 16a in Figures 4 and 6 should rather point to the distal segment of the opening 16 instead of the opening of the elastomer damper E. The dashed circle in Figure 1 should be identified to the corresponding figure and not as "A". Figures 4 and 6 should show the right side portion and the left side portion of the wall 2 and the flange 14 with a wavy line to indicate continuity. The vertical straight line at each of the end portion does not imply that the wall and the flange are annular in any respect. Reference character "6" in Figures 4 and 6 requires relocation since as compared to Figure 1, the reference character 6 rather point to a different location.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicants will be notified and informed

of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicants will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 2, 6, and 11 are objected to because of the following informalities:
regarding claim 1, "their" in line 8 should be defined;

regarding claim 2, "hole" in line 2 and twice in line 3, line 6, and line 7 should be -holes--;

regarding claim 6, "hole" in line 3 should be --holes--; and,

regarding claim 11, "the second occurrence of "a" in line 9 should be --the-- and "bends" in line 12 should be --is bendable--. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 11, the recitation "bends without breaking" in line 12 is nowhere supported in the disclosure. The specification has not established that the shank will not break and one cannot assume that it will not break. The new Figure 6 shows the

Art Unit: 3679

shank of the screw 17 bent. However, this does not imply that the shank will not break, especially when a continuous shearing force is still applied causing the shank to bend and possibly breaking the bolt once the bolt touches the edge of the hole thus breaking in shear. Accordingly, the recitation constitutes new matter not supported by the original disclosure.

Regarding claims 12-18, these claim depend from claim 11 and therefore contain new matter.

Claims 11-18 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the interaction of the screw, the annular flange, and the stationary structure to render a "fastener system".

Claims 1-9 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

Regarding claim 1, "the same axis" in line 13 lacks proper antecedent basis.

Regarding claim 2, the metes and bounds of the claim is unclear. In particular, since the tapped holes or the stationary structure is not claimed, how does comparing something that has not occurred relative to the stationary structure, which is not claimed as part of the system, further limiting the fastener system. Note that patentability is based on the structural limitations that are currently claimed and not on an unforeseen future.

Regarding claim 11, "the recitation "the proximal segment has an opening abutting the hole in the stationary structure" in lines 14-15 makes unclear how one determines the opening of the proximal segment abutting the hole specially when the hole in the stationary structure is of a different size than the portion of the hole in the stationary structure? Further, isn't just a portion of the hole in the stationary structure that abuts the opening in the proximal segment" according to lines 15-16? Further, how is a mere listing of a screw, an annular flange, and a stationary structure providing for a fastener system? The claim rather provides for a listing of components that do not even interact to make up a "fastener system".

Regarding claim 12, the recitation "an opening" in line 2 makes unclear whether this is another opening than that recited in claim 11, line 14, or the same opening.

Regarding claim 13, the metes and bounds of the claim is unclear. In particular, since the claim has not set forth the screw actually inserted in the through hole, how

Art Unit: 3679

does one know whether this claim has been met? Further, the recitation "the screw is fully inserted in the through hole" is unclear. Is the entire screw in the through hole to constitute being "fully inserted"?

Regarding claim 18, the recitation "that is greater than an outermost opening of the corresponding tapped hole" in lines 2-3 is unclear. In particular, since the tapped hole is not part of the claimed system, how does one know whether the claim has been infringed. Accordingly, the claim cannot make reference or comparisons to components not claimed, i.e., the tapped hole in the stationary structure.

Regarding claims 3-9, the claims depend from claim 1 and therefore are indefinite.

Regarding claims 12-18, the claims depend from claim 11 and therefore are indefinite.

Claim Rejections - 35 USC § 102

Claims 1, 3-6, 9, 11-13, 15, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson, 2,560,413.

Regarding claim 1, Carlson discloses, in Figures 1 and 4, a fastener system comprising an annular flange **12** and screws **16**. The screws **16** each comprise a head and a shank. The flange **12** is provided with through holes **22**. The screws are fitted so that the shank passes through the through holes **22**. The through holes **22** each comprise a distal segment **28** followed by an enlarged proximal segment **A2** (see marked-up attachment). The distal segment **28** and the enlarged proximal segment **A2** are cylindrical about an axis. The shank passes through the distal segment first and then through the proximal segment **A2**.

Regarding claim 3, the proximal segment **A2** includes a cylindrical proximal portion **A3** connected to the distal segment **28** by a circularly frustoconical distal portion **A4**.

Regarding claim 4, the frustoconical portion **A4** has a cone half-angle equal to about 60 degrees.

Regarding claim 5, the screw shank **A1** comprises, adjacent the head, a smooth shank segment of a diameter that is considerably smaller than the diameter of the distal segment, and is followed to a free end by a threaded segment having a shape.

Regarding claim 6, the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment **28**.

Regarding claim 11, Carlson discloses, in Figures 1 and 4, a fastener system comprising a screw **16**, a flange **12**, and a stationary structure **14**. The screw comprises a head and a shank. The flange **12** comprises a through hole **22**. The through hole **22** comprises a distal segment **28** and a proximal segment **A2** (see marked-up attachment). The stationary structure **14** has a hole **24**. A cross-sectional area of the distal segment **28** taken in a direction perpendicular to a central axis of the through hole **22** is smaller than that of the proximal segment **A2**. The proximal segment **A2** provides a gap **30**. The proximal segment **A2** has an opening abutting the hole **24** in the stationary structure that is sized differently from a portion of the hole **14** in the stationary structure that abuts the opening in the proximal segment **A2**.

Regarding claim 12, the proximal segment **A2** has an opening larger than the hole **24** in the stationary structure **14** (note that the hole **24** has a portion that is threaded and smaller than the proximal segment).

Regarding claim 13, a distance measured in a radial direction of the through hole **22** between an inside wall of the proximal segment **A2** and an opposing outside surface of the screw shank when the screw is fully inserted in the through hole **22** is greater than a radius of the screw shank.

Regarding claim 15, the screw shank comprises, adjacent to the head, a smooth shank segment of diameter considerably smaller than the diameter of the distal segment **28** and followed to a free end by a threaded segment.

Regarding claim 16, the diameter of the smooth shank segment is less than or equal to 80% of that of the distal segment **28**.

Regarding claim 18, as best understood, each proximal segment has an opening.

Claims 1, 5, 6, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Snider, 4,127,142.

Regarding claim 1, Snider discloses, in Figures **2** and **6**, a fastener system comprising an annular flange **19** and screws **42**. The screws **42** each comprise a head and a shank. The flange **19** is provided with through holes **A1** (see marked-up attachment). The screws **42** are fitted so that the shank passes through the through holes **A1**. The through holes **A1** each comprise a distal segment **A2** followed by an enlarged proximal segment **A3**. The distal segment **A2** and the enlarged proximal segment **A3** are cylindrical about an axis. The shank passes through the distal segment first and then through the proximal segment **A2**.

Regarding claim 5, the screw shank comprises, adjacent the head, a smooth shank segment of a diameter that is considerably smaller than the diameter of the distal segment **A2**, and is followed to a free end by a threaded segment having a shape.

Regarding claim 6, the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment of the through holes **A1**.

Regarding claim 18, as best understood, each proximal segment has an opening.

Claims 11, 13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cline, 2,083,054.

Regarding claim 11, Cline discloses, in Figure 1, a fastener system comprising a screw **19**, an annular flange **12**, and a stationary structure **18**. The screw **19** comprises a head **20** and a shank. The flange **12** comprises a through hole **14**. The through hole **14** comprises a distal segment (the cylindrical portion of the hole **14**), and a proximal segment **16**. The stationary structure **18** has a hole **A1** (see marked-up attachment). A cross-sectional area of the distal segment (the cylindrical portion of the hole **14**) taken in a direction perpendicular to a central axis of the through hole **14** is smaller than that of the proximal segment **16**. The proximal segment **16** provides a gap. The proximal segment **16** has an opening **A2** abutting the hole **A1** in the stationary structure **18** that is sized differently from a portion of the hole **A1** in the stationary structure **18** that abuts

the opening **A2** in the proximal segment **16** (note that the opening **A2** in the proximal segment is tapered and thus has different portions that are sized differently than that of the hole **A1** in the stationary structure).

Regarding claim 13, as best understood and assuming a portion of the shank is fully inserted in the through hole, Cline discloses a portion of the shank of the screw being fully inserted in the through hole. Further, a distance measured in a radial direction of the through hole between an inside wall of the proximal segment and an opposing outside surface of the screw shank is greater than a radius of the screw shank.

Regarding claim 15, the shank comprises, adjacent to the head, a smooth shank segment of a diameter substantially smaller than a diameter of the distal segment of the through hole, and is followed to a free end by a threaded segment.

Regarding claim 16, the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment of the through hole.

Claims 1-9 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider, 5,871,319.

Regarding claim 1, Schneider discloses, in Figures 1 and 4, a fastener system comprising an annular flange **2** and screws **5**. The screws **5** each comprise a head and a shank **6**. The flange **2** is provided with through holes **1**. The screws **5** are fitted so that the shank passes through the through holes **1**. The through holes **1** each comprise a distal segment **16** followed by an enlarged proximal segment **21** (and the portion adjacent the frustoconical portion). The distal segment **16** and the enlarged proximal segment **21** are cylindrical about an axis. The shank passes through the distal segment **16** first and then through the proximal segment **21**.

Regarding claims 2 and 14, the proximal segment **21** of the through hole is of a length greater than the length of the distal segment **16** of the through hole.

Regarding claim 3, the proximal segment **21** includes a cylindrical proximal portion (the cylindrical portion adjacent the frustoconical) connected to the distal segment **16** by a circularly frustoconical distal portion **21**.

Regarding claim 4, the frustoconical portion **21** has a cone half-angle equal to about 60 degrees.

Regarding claim 5, the screw shank **6** comprises, adjacent the head, a smooth shank segment of a diameter that is considerably smaller than the diameter of the distal segment **16**, and is followed to a free end by a threaded segment having a shape.

Regarding claim 6, the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment **16**.

Regarding claim 7, the proximal segment **21** is of a length greater than or equal to **1.5** times the length of the distal segment **16**.

Regarding claim 8, a washer **37** is interposed between the head of the screw **5** and an adjacent outside face of the flange **2**.

Regarding claim 9, the system further comprises a elastomer damper material **10** inserted in a space between the shank **6** and the through hole **1**.

Regarding claim 18, as best understood, each proximal segment **21** has an opening

Claims 11-13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner, EP-272-642.

Regarding claim 11, Wagner discloses, in Figures 3 and 5, a fastener system comprising a screw **12**, a flange **44**, and a stationary structure **46**. The screw **12** comprises a head **18** and a shank **22**. The flange **44** comprises a through hole (see

Art Unit: 3679

Figure 3). The through hole comprises a distal segment (the cylindrical portion; Figure 3) and a proximal segment (the open flared bottom opening. The stationary structure **46** has a hole (the threaded hole on **46**). A cross-sectional area of the distal segment (the cylindrical portion) taken in a direction perpendicular to a central axis of the through hole is smaller than that of the proximal segment. The proximal segment provides a gap (see Figure 5). The proximal segment has an opening abutting the hole in the stationary structure that is sized differently from a portion of the hole in the stationary structure that abuts the opening in the proximal segment .

Regarding claim 12, the proximal segment has an opening larger than the hole in the stationary structure **46**.

Regarding claim 13, a distance measured in a radial direction of the through hole between an inside wall of the proximal segment and an opposing outside surface of the screw shank **22** when the screw is fully inserted in the through hole is greater than a radius of the screw shank **22**.

Regarding claim 15, the screw shank comprises, adjacent to the head, a smooth shank segment **24** of diameter considerably smaller than the diameter of the distal segment and followed to a free end **23** by a threaded segment **26**.

Regarding claim 16, the diameter of the smooth shank segment **24** is less than or equal to 80% of that of the distal segment.

Claim Rejections - 35 USC § 103

Claims 2, 7, 9, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, 2,560,413.

Regarding claims 2 and 14, Carlson, as discussed, fails to disclose, the proximal segment of the through hole being of a length greater than the length of the distal segment of the through hole. Instead, the length of the proximal segment is actually less than the length of the distal segment. Applicants are reminded that a change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been an obvious matter of design choice to make the proximal segment of the through hole being of a length greater than the length of the distal segment of the through hole to accommodate longer bushings since such a modification would have involved a mere change in the size of a component. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claims 7 and 17, Carlson, as modified, fails to disclose the proximal segment **A2** having a length greater than or equal to 1.5 times a length of the distal segment **28**. Applicants are reminded that a change in size is generally recognized as

being within the level of ordinary skill in the art. Therefore, it would have been an obvious matter of design choice to decrease the length, i.e., the depth, of the distal segment **28** so that the proximal segment will have a length greater than or equal to 1.5 times the length of the distal segment **28** since such a modification would have involved a mere change in the size of a component. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 9, Carlson discloses the system further comprises a material inserted in a space between the shank and the through hole. However, the material is not an elastomer damper (as seen by the cross-section). However, Carlson suggests, in column 4, lines 10-16, any material possessing qualities of flowing and conforming to the bores can be used). Thus, one can use rubber, an elastomer damper material, since rubber possesses qualities of flowing and conforming to bores when being compressed. Therefore, as taught by Carlson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to choose rubber, an elastomer damper material, since rubber flows and conforms to bores when being compressed.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, 2,560,413, in view of Weis, 1,831,430.

Regarding claim 8, Carlson, as modified, fails to disclose a washer interposed between the head of the screw and an adjacent outside face of the flange. Monette

Art Unit: 3679

teaches, in Figure 5, a washer 57 interposed between a head of a screw 55 and an adjacent outside face of a flange 29 to lock the screw from coming loose. Therefore, as taught by Monette, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a washer 57 interposed between the head of the screw in Carlson to prevent the screw from coming loose.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline, 2,083,054.

Regarding claims 14 and 17, Cline, as discussed, fails to disclose the proximal segment of the through hole being of a length greater than a total length of the distal segment or equal to 1.5 times a length of the distal segment. As previously suggested by Cline at column 2, lines 34-38, the proximal segment allows for bending; therefore, one would have modified the size of the proximal segment so that the through hole is of a length greater than that of the distal segment or 1.5 times greater than that of the distal segment in order to increase the amount of bending. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to increase the length of the proximal segment of the through hole to be greater than that of the distal segment in order to increase the amount of bending.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, EP-272-642, in view of Schneider, 5,871,319.

Regarding claims 14 and 17, Wagner, as discussed, fails to disclose the proximal segment of the through hole being of a length greater than a total length of the distal segment or equal to 1.5 times a length of the distal segment. Schneider teaches, in Figure 1, a proximal segment **21** of a through hole **1** being of a length greater than a total length of the distal segment or equal to 1.5 times a length of the distal segment to accommodate a longer sleeve **25**. Therefore, as taught by Schneider, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the proximal segment of the through hole **1** in Wagner to have a length greater than a total length of the distal segment or equal to 1.5 times a length of the distal segment to accommodate a longer sleeve.

Response to Arguments

Applicants' arguments filed August 3, 2009 have been fully considered but they are not persuasive.

With respect to Cline, note the 35 USC 112, 2nd paragraph, rejections. It should be noted that the examiner has now relied on component 18 to be the stationary structure. Further, it should be noted that the proximal segment 16 in Cline provides for an opening that is tapered and with different portion having different sizes that are different than the opening found in the stationary structure 18. Applicants argue that

Art Unit: 3679

Cline fails to teach "the proximal segment provides a gap in which the shank can bend while maintaining the vacuum pump fastened to the stationary structure". In response, it should be first noted that any reference to the vacuum pump is moot until claimed. Note that there is no requirement in the claim that the vacuum pump is fastened to the stationary structure. Accordingly, the gap provided in Cline is capable of function as argued. Further, there's nothing that will prevent the shank from bending in the gap provided in Cline.

With respect to Carlson, it should be noted that patentability is based on the structural features and not what the system does or operates. Accordingly, whether the screw bends or not is not a matter

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

September 16, 2009

Attachment(s): one marked-up page of Cline, 2,083,054

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679



